THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

W.P.No.5831 of 2007

Date:22.03.2007

Between:

Balaji Agro Industries, Bellampalli Road.

.. PETITIONER

AND

Transmission Corporation of A.P. Ltd. and another.

..RESPONDENTS

ORDER:

The petitioner industry is connected with power supply under Category-III *vide* service connection No.5833 at Mancherial, Adilabad District. The premises were inspected on 27.09.2006 and it was found that the M.R.T. seal was tampered. The loss of revenue to the respondents was assessed at Rs.4,91,682/-. A notice of provisional assessment was issued on 06.10.2006 giving option to the petitioner to pay 50% of the said amount, if it wants continuance of the power supply. The petitioner paid a sum of Rs.2,45,970/- on 12.10.2006 and the power supply had been continued. At the instance of the respondents, F.I.R.No.889 of 2006 was registered by the Vigilance Department. The petitioner paid a sum of Rs.3,35,000/- as compounding fee and the criminal case was withdrawn on 30.10.2006. The grievance of the petitioner is that the respondents are now insisting on payment of the balance amount covered by the notice of provisional assessment. It is stated that an order of final assessment is yet to be passed and the respondents cannot demand the balance.

Heard the learned counsel for the petitioner and the learned standing counsel for the respondents.

Wherever the respondents noticed any acts of pilferage or malpractices, the actual liability of the consumer in terms of money would emerge only when an order of final assessment is passed. The petitioner was issued a notice of provisional assessment and to ensure continuity of supply, it has already paid 50% of the amount. If it is insisted to pay the balance, it amounts to the notice of provisional assessment being treated as an order of final assessment. Such a course is impermissible in law.

For the foregoing reasons, the writ petition is disposed of, directing that the respondents shall not insist on the petitioner to pay the balance amount indicated in the notice of provisional assessment till an order of final assessment is passed by the competent authority. It shall be open to the petitioner to file its objections/representation before the concerned authority, within a period of two weeks from today. There shall be no order as to costs.

_____

22.03.2007

Note: Issue operative portion
by wire at party's costs.

(B/o)

kdl